

REMARKS

The Office action has been carefully considered. The Office action rejected claims 1-67 under 35 U.S.C. §102(e) as being anticipated by U.S. Patent Publication 2004/0189669 to David et al. ("David," which is also copending U.S. patent application serial no. 10/402,322). Further, the Office action objected to claim 56 for informality due to a typographical error. Further yet, the Office action rejected claims 1-64 under the judicially-created doctrine of obviousness-type double patenting as being non-obvious in view of the teaching of copending U.S. Patent Application No. 10/693,673. Applicants have amended claim 56 to correct the typographical error. Regarding the claim rejections, applicants respectfully disagree.

By present amendment, claim 56 has been amended for clarification and not in view of the prior art. Applicants submit that the claims as filed were patentable over the prior art of record, and that the amendments herein are for purposes of clarifying the claims and/or for expediting allowance of the claims and not for reasons related to patentability. Reconsideration is respectfully requested.

Applicants thank the Examiner for the interview held (by telephone) on November 16, 2005. During the interview, the Examiner and applicants' attorney discussed the claims with respect to the prior art. The essence of applicants' position is incorporated in the remarks below.

Rejections under doctrine of obviousness-type double patenting:

Although applicants do not agree with this rejection or the characterizations in the Office action regarding the scope of any limitations, to expedite prosecution applicants submit, attached herewith, a terminal disclaimer in compliance with 37 C.F.R. §1.321(c). The terminal disclaimer is hereby submitted with respect to the identified copending U.S. patent application (A/N 10/693,673). As identified during the interview on November 16, 2005, if required by a subsequent Office action and upon indication of allowable subject matter, additional terminal disclaimers may be submitted for one or more additional copending U.S. patent applications. The additional U.S. patent applications, not yet cited in an Office action are: Serial Nos. 10/184,795, 10/184,796, 10/185,775, 10/401,717, 10/402,322 and 10/402,268, each of which are identified in the background of the present application and subject to assignment to the owner of the present application.

Rejections under §102(e)

Applicants submit that David should be disqualified as prior art with respect to the present application. Applicants submit (attached herewith) Exhibits A-C, comprising a set of signed declarations from some of the available inventors that disqualify the David reference as prior art, to the extent that any disclosed subject matter cited in David corresponds to applicants' claimed invention. In general, the David reference is one of several somewhat related patent applications filed on behalf of the assignee of the present application. In fact, several of the same inventors, including those that signed the declarations, are present across these

related patent applications. Note that each of these copending patent applications references the others in the background section, and several of them claim priority to one of the applications filed on March 27, 2003 (the same date as the filing date for the David reference).

In general, and to the extent that any disclosed subject matter cited in David corresponds or may be considered similar to the applicants' claimed invention, applicants submit that the present invention was not described in an application for patent by *another* and/or was not *before* the invention for patent, as would be required for loss of right to patent by 35 U.S.C. §102(e). These facts are evidenced by the attached declarations (Exhibits A-C).

For at least the foregoing reasons and the attached declarations, applicants submit that the David reference is not prior art as defined by 35 U.S.C. §102(e) with respect to the present application. Applicants respectfully request that the David reference be disqualified as prior art.

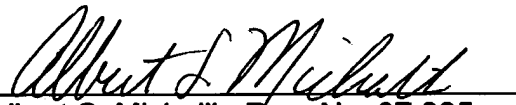
For at least these additional reasons, applicants submit that all the claims are patentable over the prior art of record. Reconsideration and withdrawal of the rejections in the Office action is respectfully requested and early allowance of this application is earnestly solicited.

CONCLUSION

In view of the foregoing remarks, it is respectfully submitted that claims 1-67 are patentable over the prior art of record, and that the application is in good and proper form for allowance. A favorable action on the part of the Examiner is earnestly solicited.

If in the opinion of the Examiner a telephone conference would expedite the prosecution of the subject application, the Examiner is invited to call the undersigned attorney at (425) 836-3030.

Respectfully submitted,

A handwritten signature in cursive script, reading "Albert S. Michalik", is written over a horizontal line.

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CERTIFICATE OF MAILING

I hereby certify that this Amendment with exhibits A-C; Amendment Transmittal; Petition for Extension of Time; Terminal Disclaimer; and Credit Card Payment Form are being deposited with the United States Postal Service on the date shown below, with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, Alexandria, VA 22313-1450.

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Date: January 23, 2006



Albert S. Michalik

4120 Second Amendment